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OFFICE OF PETITIONS

In re Patent No. 7,449,475	:	
Hossain et al.	:	
Issue Date: November 11, 2008	:	DECISION ON APPLICATION
Application No. 10/520,699	:	FOR
Filed: January 7, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 06275-427US1/	:	
100684-1P US	:	

This is in response to the "RESPONSE TO DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed July 30, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from one hundred thirty-one (131) days to one hundred seventy-nine (179) days. The present reconsideration petition was filed within two months of the June 8, 2009 decision on petition under 37 CFR 1.705(d) and is therefore, timely filed.

The request for reconsideration is **granted to the extent indicated herein.**

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay").


The commencement date is 30 months from the priority date claimed in the international application, or earlier. The priority date claimed in the international application is July 8, 2002. Thirty months from that date is January 8, 2005, which is the beginning of the Three Year Delay period. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 9, 2008 and ends on February 24, 2008, the day before the RCE was filed, and is 47 days. See 35 U.S.C. 154(b)(1)(B)(i). There were no overlapping days of delay. As such, the patent term

adjustment is 178, not 179 days. The PTA formula is 307 days of A delay + 47 days of B delay - 176 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred seventy-eight (178) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,449,475 B2

DATED : November 11, 2008

DRAFT

INVENTOR(S) : Hossain et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 131 days

Delete the phrase "by 131 days" and insert – by 178 days--